



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	04/03/00	Bill No:	AB 2739
Tax:	Hazardous Waste	Author:	Baugh
Board Position:	Neutral	Related Bills:	

BILL SUMMARY:

This bill would revise the fee schedule for the annual environmental fee for those corporations that employ 1,000 or more employees and would increase the number of hours for determining the number of employees of a corporation.

ANALYSIS:

Current Law:

Under existing law, Section 25205.6 of the Health and Safety Code provides that corporations in industry groups that use, generate, store, or conduct activities in this state related to hazardous materials pay an annual fee to the Board of Equalization (Board). This environmental fee is based on the number of employees employed by a corporation in the state during the previous calendar year.

The environmental fee is adjusted annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the California Consumer Price Index (CCPI). The fee rates for the 2000 calendar year are as follows:

Number of Employees	Annual Fee Rate
1 – 49	\$0
50 – 74	\$209
75 – 99	\$367
100 – 249	\$734
250 – 499	\$1,573
500 – 999	\$2,936
1,000 or more	\$9,963

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The annual fee is paid to the Board and deposited into the state's Toxic Substances Control Account.

Proposed Law:

Among other things, this bill would amend Section 25205.6 to revise the annual environmental fee rates for those corporations that employ 1,000 or more employees. These revised rates would be for the 2000 and 2001 calendar years and annually adjusted based on the changes in the cost of living as measured by the CCPI, beginning with the 2002 calendar year. The revised base fee rates would be as follows:

Number of Employees	Calendar Years 2000/2001 Annual Fee Rate
1,000 – 1,499	\$4,200
1,500 – 1,999	\$5,600
2,000 – 2,499	\$7,000
2,500 – 2,999	\$8,400
3,000 or more	\$9,500

This bill would also increase the number of hours that a person is required to work during the preceding calendar year to be considered an employee of a corporation from 500 to 1,000 hours. Furthermore, this bill would retroactively reduce the fee rates for corporations with fewer than 1,000 employees for calendar years 1999 and 2000. The revised rates for these corporations would be adjusted based on the changes in the cost of living beginning with the 2002 calendar year.

Background

In 1989, Senate Bill 475 (Ch. 269, Stats. 1989) added and Assembly Bill 41 (Ch. 1032, Stats. 1989) amended Section 25205.6 of the Health and Safety Code to require certain corporations involved in activities related to hazardous materials to pay an annual fee based on the number of employees employed in this state.

Senate Bill 1469 (Ch. 852, Stats. 1992) amended 25205.6 to revise the categories for reporting the number of employees within corporations which use, generate, store, or conduct activities in this state related to hazardous materials for computing the environmental fee.

Senate Bill 660 (Ch. 870, Stats. 1997), the Environmental Cleanup and Reform Act of 1997, implemented legislative findings and declarations concerning the state's hazardous waste management program and existing fee and funding mechanisms. That bill amended Section 20205.6 to flatten the environmental fee rate structure to

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make the fee more equitable by equalizing the average rate per employee paid by corporations in each range. Additionally, that bill established a new rate category for corporations with 1,000 or more employees, decreased the Generator Fee, repealed the Generator Surcharge and various hazardous waste fees and changed several fees-for-services. For the most part, the revenue losses from the repealed fees, the changed fees-for-services and the decreased Generator Fee were estimated to offset the resulting increase in the Environmental Fee.

Comments

1. Sponsor and purpose. This bill is sponsored by Assembly Member Baugh and is intended to establish a more equitable environmental fee schedule for those corporations with 1,000 or more employees.
2. Amendments contained in this version of the bill. The bill as introduced described the fee categories in such a way as to unintentionally exclude from payment of the environmental fee corporations with exactly 1,499, 1,999, 2,499 or 2,999 qualifying employees. The amendments adopt the Board's suggested language so that the fee would be imposed on all corporations with 50 or more qualifying employees.

The amendments also extend the 1998 base rate for corporations with fewer than 1,000 employees to calendar years 1999 to 2001. This change would retroactively lower prior calendar year fee rates, which would result in refunds of amounts already collected. This would occur because the fees in *existing law* for corporations with fewer than 1,000 employees are the rates for the *1998 calendar year (base rate) only*. These base rates have been adjusted (increased) twice, for calendar years 1999 and 2000. Therefore, refunds would be necessary based on the difference between current fees and the fees in this version of the bill.

A discussion with the author's office indicated that it was not the author's intent to lower the base rates for corporations with fewer than 1,000 employees for previous calendar years. In other words, the author did not intend to change existing law regarding the fees for corporations with fewer than 1,000 employees. The author only intended to revise the fees for corporations with more than 1,000 employees.

Furthermore, the amendments provide that the fee rates would be adjusted annually beginning with the 2002 calendar year. Accordingly, the fee rates that would be adjusted for the 2001 calendar year based on the changes in the cost of living, as measured by the CCPI under current law, would not be adjusted until the 2002 calendar year.

The author's intent was to only revise the beginning date for the annual adjustment of the fee rates for corporations with more than 1,000 employees. The fee rates for corporations with fewer than 1,000 employees were intended to remain as provided in current law.

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3. The following language is suggested in order for this bill to accomplish its intent:

25205.6. (e) ~~(1) Except for the fees specified in subdivision (b) for~~ For corporations with less than 1,000 or more employees, the fee rates specified in subdivision (b) are the rates for ~~calendar years 1998 to 2001, inclusive~~ the 1998 calendar year. Beginning with the ~~2002~~ 1999 calendar year, and for each calendar year thereafter, the board shall adjust the rates annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or by a successor agency.

(2) For corporations with 1,000 or more employees, the fee rates specified in subdivision (b) are the rates for calendar years 2000 and 2001. Beginning with the 2002 calendar year, and for each calendar year thereafter, the board shall adjust the rates annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or by a successor agency.

COST ESTIMATE:

The Board would incur administrative costs associated with this bill for notifying feepayers, developing returns, computer programming, and advising and answering inquires from the public. A detailed cost estimate is pending.

REVENUE ESTIMATE:

Background, Methodology, and Assumptions

This bill is a non-urgency statute that would be effective on January 1, 2001. The annual fee due from a corporation is based on the number of workers a corporation employs. Corporations with fewer than 50 employees are not required to pay the fee. Revenues estimated for fiscal year 2000-01 reflect the rate changes if this bill passes with an amendment to specify that the amended fee structure pertains to calendar year 2000 and beyond.

1. Hour Change. Under this bill, corporations would stop counting employees who work 500 to 1000 hours per year when they calculate their annual fee payment. Some corporations would fall into lower payment brackets. Others would drop out of the bottom bracket and owe no fee.

For this analysis, we assumed that the proportion of people working 500 to 1000 hours in the United States and in California's corporations is the same, and that the number of persons working these hours is uniformly distributed. The Statistical Abstract of the United States provides the number of persons working certain hours

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per week.¹ Based on these data, we estimate about 6.1 percent of Americans work between 10 and 19 hours per week, nearly equivalent to 500 to 1000 hours per year.

The Board's Environmental Fees Division sampled 87 corporations from among the 796 employing 1000 or more workers. Percentages derived from the sample were used to determine how the 796 corporations would be distributed in the top five brackets based on the current method of counting employees. The distribution of the remaining corporations among existing brackets is known. To estimate how the new method of counting employees would redistribute corporations among current and proposed brackets, we assumed that corporations in each bracket were uniformly distributed. We then applied the 6.1 percent reduction in the employee count to corporations in each bracket except the top one.²

The change in employee counts resulting from the change in hours requirement would affect an estimated 2,786 corporations. Of this total, 1,621 corporations would shift to lower payment brackets. The remaining 1,165 corporations in the lowest fee-paying bracket (50 – 74 employees) would count fewer than 50 employees and would not be subject to the fee. They would be replaced with about 985 corporations from the second bracket, and so on.

Based on the redistribution alone, we estimate fee payments would be reduced by almost \$1 million in fiscal year 2000-01, to \$23.3 million. The loss would increase slightly the following year, by about \$50,000.

2. Fee Structure Change. Each year, the Board adjusts the rates by the percent change that occurred in the CCPI during the prior fiscal year. Existing fee rates have been adjusted twice since the base year of 1998. As specified in the amendments, the new fee rates would not be adjusted for CCPI changes until 2002.

If corporations continued to count employees working 500 to 1000 hours, those now paying an annual fee of \$9,963 would pay either \$4,200, \$5,600, \$7,000, \$8,400 or \$9,500. Multiplying the number of corporations in each existing and new bracket by both old and new rates yields estimated payments with and without changes in the fee structure. The difference is the revenue loss. Based on the change in fee structure alone, we estimate fee payments would be reduced by \$2.7 million in fiscal year 2001-01, to \$21.6 million.

3. Hour and Fee Structure Changes. Both hour and fee structure changes would reduce revenue payments by about \$3.6 million, to \$20.8 million in fiscal year 2000-01. The loss would increase to \$4.0 million the following year during which \$21.5 million in fee payments would be due. Most of the \$0.4 million increase in the revenue loss in 2001-02 (\$4.0 million in 2001-02, compared to \$3.6 million in

¹ Table No. 664. Persons At work, by Hours Worked: 1998. U.S. Census Bureau, Statistical Abstract of the United States: 1999.

² The percentage cannot be applied to the top bracket because there is no upper limit that will allow us to make the distribution.

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2000-01) occurs because the fee rates are adjusted for the CCPI under current law, but remain frozen for the 1998 through 2001 period under the proposed legislation.

Revenue Summary

The proposed hour and fee structure changes would reduce revenue payments by about \$3.6 million, to \$20.8 million in fiscal year 2000-01. The loss would increase to \$4.0 million the following year, during which \$21.5 million in fee payments would be due.

Qualifying Remarks

The Department of Toxic Substances Control has requested a computer run from the Employment Development Department that provides more information on employee hours for specific taxpayer categories. We are also continuing to look for information that may improve our estimate of the impact of the employee-hours definition change. Our revenue estimate may change when we obtain better information.

The revenue estimate was prepared based on anticipated drafting changes to reflect the author's intent, as previously explained, rather than the language in this version of the bill.

Analysis prepared by:	Cindy Wilson	445-6036	04/20/00
Revenue estimate by:	Joe Fitz	323-3802	
Contact:	Margaret S. Shedd	322-2376	
mcc			

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